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May 3, 1999

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General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

MAY 4 11 29 AM '99

Re: Complaint against Zack Exley and www.gwbush.com

Dear Mr. Noble:

Pursuant to 2 U.S.C. § 437g, and upon information and belief, this complaint concerns violations of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431 et seq. ("the Act"), and Commission regulations at 11 C.F.R. § 1.1 et seq., by Zack Exley and the internet web site located at www.gwbush.com.

Specifically, based upon publicly available information found at www.gwbush.com, and upon information and belief, there is reason to believe that Zack Exley and www.gwbush.com have violated 2 U.S.C. § 441d and 11 C.F.R. § 110.11 for failure to include the proper independent expenditure disclaimers on the web site. In addition, if Mr. Exley's and www.gwbush.com's expenditures associated with the web site aggregate in excess of \$250 for 1999, they must file the independent expenditure reports required by 2 U.S.C. § 434(c) and 11 C.F.R. §§ 104.4(c), 104.5(c)(2) and 109.2. Finally, if Zack Exley and www.gwbush.com have received contributions or made expenditures whose aggregate value is in excess of \$1,000 during a calendar year, they have violated the registration requirements for political committees under the Act and Commission regulations. See 2 U.S.C. §§ 431(4)(A), 433(a); 11 C.F.R. §§ 100.5(a), 102.1(d).

Lawrence M. Noble, Esq.
May 3, 1999
Page 2

I. STATEMENT OF THE FACTS

The web site, www.gwbush.com, is owned and operated by Zack Exley, zackexley@yahoo.com, 25 Magnus Ave., Apt. # 1, Somerville, MA 02143.¹ As the attached copy of the site indicates, it is filled with libelous and untrue statements whose aim is to damage Governor Bush in his effort "for President" in the upcoming election. The headline of the site is: "Just Say 'No' to a Former Cocaine User for President". Immediately below this statement is a clear picture of Governor Bush. In addition, without any backup or documentation, this site's innuendoes and false statements attack the Governor's positions on tough standards for convicted drug users.

The existence of the site demonstrates that Zack Exley has expended or received funds to create and maintain this site. The costs associated with the site must include its fair value (which may have been set by Mr. Exley if he has attempted to sell the domain site) plus the fee to secure the registration of the domain name "www.gwbush.com," the cost of the computer hardware that houses the site and maintains its operations, and the utility costs to create and maintain the site, including the computer software. Furthermore, if Mr. Exley did not create the site himself, the labor or consulting costs for creating and maintaining the site must also be included.

If the value of the site and the costs involved in setting it up exceed \$250, Mr. Exley must file the reports required of all independent expenditures. And if the value of the site and the costs of its establishment exceed \$1,000, then Mr. Exley must register with the Federal Election Commission ("the Commission") as a political committee and file the periodic reports required by the Act for all activity. If the message is somehow being disseminated by a corporate entity, then Mr. Exley is also guilty of violating 2 U.S.C. § 441b.

II. LEGAL ANALYSIS

A. Mr. Exley and www.gwbush.com have violated the Act and Commission regulations by failing to include the required disclaimers on the web site.

The Act and Commission regulations require that all communications that expressly advocate the election or defeat of a clearly identified federal candidate must carry a disclaimer identifying the sponsor of the communication and whether it is coordinated with or

¹ In attempting to contact Mr. Exley about the contents of his site, Complainant has found Mr. Exley more accessible at his "zackexley@yahoo.com" e-mail address than his "snail mail" address in Somerville. We urge the Commission to serve this complaint on Mr. Exley at both addresses.

Lawrence M. Noble, Esq.
May 3, 1999
Page 3

independent of a candidate for federal office. See 11 C.F.R. § 110.11. The disclaimer requirements also apply to express advocacy communications located on a web site. See, e.g., FEC AO 1998-22 (concluding that an independent web site must satisfy the disclaimer requirements if it advocates the defeat of a clearly identified federal candidate). If a political communication located on a web site is an independent expenditure, then the disclaimer must comply with 11 C.F.R. § 110.11(a)(1)(iii).

There is no question that the statement "Just Say 'No' to a Former Cocaine User for President" constitutes express advocacy under Buckley v. Valeo, 424 U.S. 1, 44 n.52 (1976), and Commission regulations at 11 C.F.R. § 100.22. Likewise, there is no question that the web site clearly identifies Governor Bush. See 11 C.F.R. § 100.17 ("clearly identified" means the candidate's name, nickname, photograph . . .).

Thus, Mr. Exley and www.gwbush.com have violated the Act and Commission regulations by failing to include the required disclaimers on the web site. This violates the Act and Commission regulations and warrants a thorough investigation by the Commission.

B. If Mr. Exley's and www.gwbush.com's expenditures associated with the web site exceed \$250 in 1999, they must file the independent expenditure reports required by the Act and Commission regulations.

Commission regulations provide that any person who makes independent expenditures aggregating in excess of \$250 during a calendar year must file a signed statement or report on FEC Form 5 with the Commission. See 11 C.F.R. § 109.2.

The fair market value of the site (which Mr. Exley may have established if he has attempted to sell the site) and the costs associated with its creation and maintenance constitute "expenditures" under the Act and Commission regulations, 2 U.S.C. § 431(9) and 11 C.F.R. § 100.8, because the site expressly advocates the defeat of a federal candidate by exhorting readers to "just say no" to Governor Bush "for President". See 11 C.F.R. § 100.22. Therefore, the costs associated with www.gwbush.com constitute "expenditures" under the Act and Commission regulations.

In addition, the costs associated with the site appear to aggregate in excess of \$250 during 1999. The Commission has concluded that the overhead costs associated with the creation of a web site include "the fee to secure the registration of [the] domain name, the amounts . . . invested in [the] hardware, and the utility costs to create the site." FEC AO 1998-22. Moreover, if Mr. Exley hired any consultants, or paid a third party to create the site, then

Lawrence M. Noble, Esq.
May 3, 1999
Page 4

those costs would count toward the \$250 threshold for filing independent expenditure reports. As one recent newspaper article indicates, the costs of creating and maintaining a web site of this type can cost as much as \$2,000 or more. See Judy Keen, Candidates Use Web To Click With Voters, USA Today, Apr. 29, 1999.

Accordingly, if Mr. Exley and www.gwbush.com have made expenditures aggregating in excess of \$250 during 1999, then they must file the semi-annual independent expenditure reports required by the Act and Commission regulations. See 11 C.F.R. §§ 109.2(a)(2) & 104.5(c)(2). Failure to file the required independent expenditure reports would constitute a violation of the Act and Commission regulations and would warrant a thorough investigation by the Commission.

C. If Mr. Exley and www.gwbush.com have received contributions or made expenditures in excess of \$1,000 during 1999, they have violated the Act and Commission regulations by failing to register as a political committee.

The Act and Commission regulations define a "political committee" as a committee, club, association or other group of persons which receives contributions or makes expenditures aggregating in excess of \$1,000 during a calendar year. See 2 U.S.C. § 431(4); 11 C.F.R. § 100.5. The costs associated with communications that advocate the election or defeat of a clearly identified federal candidate, such as www.gwbush.com, constitute expenditures under the Act and Commission regulations. See 11 C.F.R. § 109.1. If a group of individuals satisfy the definition of a political committee, they are required to file a Statement of Organization within ten days of qualifying. See 11 C.F.R. § 102.1(d).

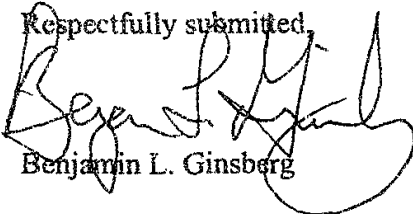
A review of the Commission's web site indicates that Mr. Exley and www.gwbush.com have not filed a Statement of Organization with the Commission. If the costs associated with the web site exceed \$1,000 for 1999, then they are required to file a Statement of Organization. This failure constitutes a violation of the Act and requires further investigation by the Commission.

Lawrence M. Noble, Esq.
May 3, 1999
Page 5

III. CONCLUSION

Mr. Exley's and www.gwbush.com's failure to comply with the Act and Commission regulations warrants further investigation and enforcement by the Commission. Therefore, the Commission should immediately investigate this matter and find reason to believe that Mr. Exley and www.gwbush.com have violated the Act and Commission regulations for the reasons set forth herein.


Respectfully submitted,


Benjamin L. Ginsberg

Attachments

STATE OF District of Columbia)
COUNTY OF Columbia)

SWORN TO AND SUBSCRIBED before me on this 4th day of May, 1999.


Notary Public

My Commission Expires:

My Commission Expires September 14, 2000

Just Say "No" to a Former Cocaine User for President

"I'm not going to talk about it... it's irrelevant what I did. What's relevant is that I have learned from any mistakes I made."



Former cocaine user, governor of Texas, future president?



Former girlfriend of a cocaine user, sentenced to 19 years in federal prison.

"You don't have to sell drugs to get into trouble. I just dated someone who used drugs."

Over one million Americans are serving long sentences for non-violent drug offences. Hundreds of thousands are guilty only of possession of small quantities of marijuana, cocaine or other drugs. Many were found guilty without physical evidence, on hearsay or testimony of someone desperate to make a deal with the prosecutor.

George W. Bush, Jr. will not deny that he used to use cocaine, but he fiercely advocates harsh and lengthy mandatory sentences for drug offenses just like those he himself committed.

Governor Bush, we're sorry, but a former cocaine user cannot be the leader of a nation that has imprisoned over a million people for drug crimes, hundreds of thousands of which were no worse than yours.

You say, "...what I did as a youth is irrelevant to this campaign. What is relevant is, have you grown up, and I have." But many former drug users have also grown up, and are still doing hard time in prison. Will you, as "Chief Law Enforcement Officer of the Land", pardon them? Or will you show the youth of America that using drugs is only a crime if you get caught?

All Bush quotes from Newsweek, Nov. 16th, 1998, page 46.

More coming soon. E-mail us: info@gwbush.com

For more info on the drug war check out:

The November Coalition---Only if you're ready to have your trust in our government completely shattered.

The Lindesmith Center

PS: We have received emails from a lot of people asking if we are Clinton or Gore supporters. The answer is, No, absolutely not. But Bush says he is better than Clinton and Gore. He says he has character, and is honest. The only way he can prove this is to disclose to the American people which laws he broke, and which drugs he used and possessed when he was "younger". At least Gore has done this by admitting that he has used

marijuana.

2004-03-25 14:49

FREE! - Download Your Own Domain Search Software - Win95/98/NT

DOMAIN NAME TAKEN

GWBUSH.COM**is already registered****Registrant:**

Zack Exley (GWBUSH3-DOM)
25 Magnus Ave Apt 1
Somerville, MA 02143
US

Domain Name: GWBUSH.COM

Administrative Contact:

Exley, Zack (ZE81) zackexley@YAHOO.COM
617-776-8266

Technical Contact, Zone Contact:

Host Master (NETCOMI-WM) domreg@HOSTING.NETCOM.COM
972-481-5700

Billing Contact:

Exley, Zack (ZE81) zackexley@YAHOO.COM
617-776-8266

Record last updated on 01-Dec-98.

Record created on 01-Dec-98.

Database last updated on 26-Apr-99 10:40:23 EDT.

Domain servers in listed order:

NS5.NETCOMI.COM	204.58.155.20
NS6.NETCOMI.COM	204.58.155.21

Return to main page

DOMAIN NAME TAKEN

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